

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

LBS INNOVATIONS LLC,

Plaintiff,

VS.

**AARON BROTHERS, INC.,
ACADEMY LTD.
DBA ACADEMY SPORTS + OUTDOORS,
ADAMS GOLF INC.; ADAMS GOLF,
LTD.; COMERICA INCORPORATED;
COMPUSA.COM INC.; CONN'S INC.;
FOSSIL INC.; GAMESTOP CORP. DBA
GAMESTOP CORP. OF DELAWARE;
HOMESTYLE DINING LLC;
HOTELS.COM, L.P.; PIER 1 IMPORTS,
INC.; RUG DOCTOR, INC.; STAGE
STORES INC.; TIGERDIRECT, INC.;
AND WHOLE FOODS MARKET, INC.**

Defendants.

Civil Action No. 2:11-cv-00142-DF

Jury Trial Demanded

**DECLARATION OF JAMES C. PISTORINO IN SUPPORT OF
COMERICA INCORPORATED'S AND WHOLE FOODS MARKET, INC.'S
MOTION TO STRIKE INDIRECT INFRINGEMENT ALLEGATIONS**

I, James C. Pistorino, declare as follows:

1. I am an active member of the State Bar of Texas. I am an attorney at Perkins Coie LLP, counsel to Comerica Incorporated (“Comerica”) and Whole Foods Market, Inc. (“Whole Foods”) in the above-captioned action. I make this declaration based upon my own personal knowledge unless otherwise indicated herein, and if called as a witness, I could and would competently testify thereto. I submit this Declaration in Support of Comerica’s and Whole Foods’ Motion to Strike Indirect Infringement Allegations (“Motion to Strike”).

2. Exhibit A submitted with the Motion to Strike is a true and correct copy of LBS Innovations LLC’s (“LBS”) Disclosure of Asserted Claims and Infringement Contentions (“Original Contentions”), served on June 27, 2011.

3. Exhibit B submitted with the Motion to Strike is a true and correct copy of Exhibit D to the Original Contentions, served on June 27, 2011.

4. Exhibit C submitted with the Motion to Strike is a true and correct copy of Exhibit N to the Original Contentions, served on June 27, 2011.

5. Exhibits D and E submitted with the Motion to Strike are true and correct copies of LBS’s Amended Infringement Contentions (“Amended Contentions”) against Comerica and Whole Foods, respectively, served on March 20, 2012.

I declare under penalty of perjury under the laws of the United States of America and the state of Texas that the foregoing is true and correct to the best of my knowledge and that this declaration was executed by me on the 27th day of June, 2012 in Palo Alto, California.

/s/ James C. Pistorino
James C. Pistorino